

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:18-cr-00076

EXECUTIVE AIR TERMINAL INC.

ORDER

At a hearing held on May 3, 2018, the defendant, Executive Air Terminal, Inc., appeared in person and by counsel, Mychal S. Schulz and Christopher B. Power, for the purpose of the defendant's plea to the single-count Information filed against them. The United States was represented at the hearing by Erik S. Goes, AUSA and Perry D. McDaniel, AUSA.

The court inquired of the defendant, both personally and through counsel, to determine the defendant's competency. The court found the defendant competent and capable of entering an informed plea.

Mr. McDaniel summarized and offered for the court's consideration the entirety of the written plea agreement in this case signed by both the defendant and counsel. The court reserved acceptance of the plea agreement until sentencing but ordered the original plea agreement filed with the Clerk.

The court then read to the defendant the charge contained in the Information. The court inquired as to the defendant's plea. The defendant then pleaded guilty.

The court further inquired, pursuant to the requirements of *Fed. R. Crim. P.* 7(b), as to the defendant's understanding of their right to require the United States to proceed by way of indictment. After thorough explanation by the court of their right to indictment, the defendant executed a Waiver of Indictment which was witnessed by their counsel and ordered filed by the court. After considering the defendant's responses to inquiries made by the court, the court found that the defendant had made a knowing and intelligent waiver of the right to proceed by way of indictment.

The court then read the pertinent portion of 42 U.S.C. § 6928 (d) (2) (A) and 18 U.S.C. § 2. The court explained the elements that the United States would have had to prove had this matter gone to trial. After hearing and considering the defendant's explanation of why they considered themselves guilty and hearing evidence from the United States about what it would have been able to prove at trial, the court found that there was a sufficient factual basis for the defendant's plea of guilty.

The court further informed the defendant, pursuant to the requirements of *Fed. R. Crim. P.* 11(c)(1), of the nature of the charge and of the consequences of pleading guilty to the charge. After explaining thoroughly these items and after hearing and considering the defendant's responses to the court's questions, the court found that the defendant understood the nature of the charge and the consequences of pleading guilty.

The court further informed the defendant, pursuant to the requirements of *Fed. R. Crim. P.* 11(c)(3), (c)(4), of the constitutional and other legal rights that the defendant was giving up by pleading guilty. After explaining thoroughly these items and after hearing and considering the defendant's responses to the court's questions, the court found that the defendant understood their

constitutional and other legal rights.

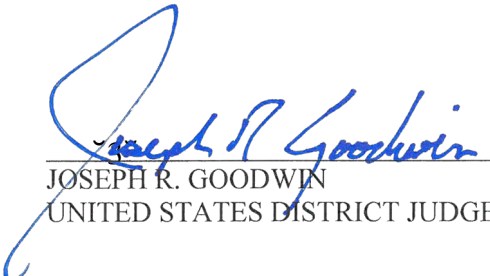
The court further inquired of the defendant, pursuant to the requirements of *Fed. R. Crim. P.* 11(d), to insure that the defendant's plea was voluntary. After hearing and considering the defendant's responses to the court's questions, the court found that the defendant's plea was voluntary.

The defendant further executed a written plea of guilty which was witnessed by defendant's counsel and ordered filed by the court. The court accepted the defendant's plea. Accordingly, the court **ADJUDGES** the defendant, Executive Air Terminal, Inc. guilty, and the defendant now stands convicted of violating 42 U.S.C. § 6928 (d) (2) (A) and 18 U.S.C. § 2.

The court **ORDERS** that the Probation Office prepare and forward a draft presentence report to the United States and counsel for the defendant no later than **June 7, 2018**; that the United States Attorney and counsel for the defendant file objections to the draft presentence report no later than **June 21, 2018**; that the Probation Office submit a final presentence report to the court no later than **July 5, 2018**; and that the United States and counsel for the defendant file a sentencing memorandum no later than **July 12, 2018**. In their respective sentencing memoranda, the court **ORDERS** the United States and counsel for the defendant to offer any evidence or argument related to a requested sentence or sentencing range in light of *Gall v. United States*, 552 U.S. 38 (2007). The court **SCHEDULES** final disposition of this matter for **July 19, 2018, at 11:00 a.m.**

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: May 3, 2018



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE